IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 747 (M/B) 2003

M/s Surya Roshni Limited
Moradabad Road,
Kashipur, Distt. Udham Singh Nagar,
Through its Chief General Manager. ----Petitioner

Versus

State of Uttaranchal, through Secretary,
Labour Department, Uttaranchal Shasan,
Dehradun and others ----Respondents

Sri Manoj Tewari, learned counsel for the petitioner,
Sri K.P. Upadhayaya, learned counsel for the State.

Coram: Hon'ble S.H. Kapadia, C.J.
Hon'ble Rajesh Tandon, J.

Date: 20.08.2003:

PC:-

By this writ petition, the petitioner seeks to challenge the validity of the reference made by the Assistant Labour Commissioner under section 4K of the U.P. Industrial Disputes Act, 1947.

The matter concerns dismissal of the workman. It is argued on behalf of the petitioner that under section 11A of the Industrial Disputes Act, 1947, the State Government has to delegate the power to make reference by a notification and that in this case the Assistant Labour Commissioner has been empowered to make reference only by virtue of a communiqué and not by a notification duly gazetted.

At this stage we do not wish to interfere under Article 226 of the Constitution. The reference was made as far back on 9th November 2002. It is submitted on behalf of the petitioner that the petitioner has taken the above objection before the Labour Court. If so, the Labour Court shall decide the above objection provided till today the Labour Court has not given its award. In case the Labour Court has passed its award, the above objection can be raised by the petitioner, if so advised at the appropriate stage in future, if the award is challenged in this Court.

Subject to above, writ petition is rejected.

(Rajesh Tandon, J.) **(S.H. Kapadia, C.J.)**

Melkani: